THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION No.2712 OF 1999

DATED: 21.11.2007

Between:

Ch. Baswaiah and another
.. Petitioners

And

A.P. State Road Transport Corporation, Musheerabad, Hyderabad, rep. by its Managing Director and another.
.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION No.2712 OF 1999

ORDER:

This writ petition is filed seeking a Mandamus declaring the action of the 2nd respondent in terminating the services of the petitioners, vide proceedings No.P1/255(20)/98-GPP, dated 21.07.1998, on the ground that they have participated in strike, while retaining all other employees, who have participated in the said strike, in service, as arbitrary, illegal and violative of Articles 14, 16 and 21 of the Constitution of India, and consequently to direct the respondents to reinstate the petitioners into service with all other consequential benefits.

2. The facts are not much in dispute. It appears, petitioners, while working as cleaners, on daily wage basis, with the respondent Corporation at Pregnapoor Depot, Medak District, have participated in a strike initiated by National Mazdoor Union from 18.07.1998 to 31.07.1998. According to the petitioners, after the strike was called off and when they attended to duties on 01.08.1998, they were not permitted to join duty stating that their services were terminated on account of their participation in the strike and the impugned order, dated 21.07.1998, terminating their services, was served on them on that day. The grievance of the petitioners is that many of the other

employees, who have participated in the strike, were permitted to join duty, whereas they were denied of the same and were kept out of employment and, thus, the impugned order is arbitrary, illegal and also in violation of Section 25-F of the Industrial Disputes Act (for short 'the Act').

3. A detailed counter-affidavit has been filed by the respondents denying the allegations made by the petitioners. It is asserted that as per Circular No.PD-60/98, dated 15.07.1998, the services of the employees, who are working on contract/casual basis, need not be continued, if they join illegal strike, and, since the petitioners have participated in illegal strike and did not report to duty even for one day during the said period, their services were terminated with effect from 21.07.1998.

4. Now, the learned counsel for the respondents states that, during the pendency of the writ petition, the petitioners have been reinstated into service, vide order dated 18.02.1999, and they are continuously working with the Corporation from that day, hence, nothing survives in the writ petition for adjudication and the same is liable to be dismissed as infructuous. Perused the record produced by the learned counsel for the respondents in proof of reinstatement of the petitioners into service.

5. However, I am not in agreement with the submissions made by the learned counsel for the respondents. The impugned order, dated 21.07.1998, was not in consonance with the provisions of Section 25 of the Act. It is also not the case of the respondent Corporation that petitioners have not put in 240 days of continuous service preceding the date of termination of their services in the year 1998. Therefore, I

am of the opinion that the impugned order is ex-facie illegal and is liable to be set aside.

6. Accordingly, the impugned order, dated 21.07.1998, is set aside and the respondents are directed to treat the period from 18.07.1998 till the date on which the petitioners have joined duty, in pursuance of the order dated 18.02.1999, as continuous service rendered by the petitioners. However, the petitioners are not entitled for any backwages and other attendant benefits etc.

7. The writ petition is allowed to the extent indicated above. No costs.

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JUSTICE C.V. RAMULU

21st November, 2007.
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